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Department of  
Agriculture

Food and  
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Service

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Reply to  
Attn. of: SP 96-17

Subject: Guidelines for Implementing Public Law 104-149, the Healthy Meals for Children Act

To: STATE AGENCY DIRECTORS (Child Nutrition Programs) - Colorado ED, Iowa, Kansas, Missouri ED, Montana OPI, Nebraska ED, North Dakota, South Dakota, Utah, Wyoming ED

This memorandum is written for documentation and clarification to the letter dated July 1, 1996, from Patricia Morris, Acting Deputy Administrator of Special Nutrition Programs.

As you know on May 29, 1996, President Clinton signed the Healthy Meals for Children Act (Public Law 104-149), which increases flexibility for local school meal planners and reaffirms the nutrition standards established in existing law and regulation. The new law authorizes the use of "any reasonable approach, within guidelines established by the Secretary in a timely manner" to plan and prepare meals if that approach produces compliance with the nutrition standards of the National School Lunch Program (NSLP) and School Breakfast Program (SBP). This memorandum provides **interim guidance** for implementing the statute and clarifies the requirements schools must continue to meet.

#### I. MENU PLANNING ALTERNATIVES

In providing "increased flexibility for schools to meet the Dietary Guidelines for Americans," Public Law 104-149 authorizes schools to use "any reasonable approach" to plan and prepare meals. The law cites **four specific menu planning systems** as meeting this criterion:

- 1) NuMenus,
- 2) Assisted NuMenus,
- 3) Enhanced Food-Based system, and
- 4) Meal patterns in effect during School Year (SY) 1994-1995.

As a result, schools may continue to use the Traditional Meal Pattern. Since the law considers that any of the four systems are capable of supporting compliance with the nutrition standards, schools may elect to adopt any one of them for SY 1996-1997 and for subsequent school years. The traditional meal patterns in effect during SY 1994-1995, NuMenus, and the Food- Based system may be used **without prior approval**. Schools electing to use Assisted NuMenus must, as stipulated by current regulation, submit their menus and recipes to the State Agency (SA) for review before using them. All applicable program regulations continue to apply to the above menu planning systems.

The law recognizes that **additional approaches** may be developed that would support compliance with the nutrition standards, but stipulates that such alternatives should also conform to guidelines established by the Secretary. The language of this provision gives the Department broad discretion to develop guidelines on what

would constitute approvable alternative reasonable approaches. At a minimum, we are assuming that there must be a method for judging the likelihood that the alternative system could, in fact, result in compliance with the nutrition standards, and there must also be a way to ensure that reimbursable meals meet certain minimum standards and can be identified and counted at the point of service.

The Department is cognizant of the value of local flexibility, but also recognizes that the NSLP and the SBP are national programs with **uniform meal reimbursement rates**. Finding

the appropriate balance between preserving national minimums in these programs while also providing for local discretion will require a careful and deliberate policy development process. The Department believes that the best and most appropriate avenue for implementation of alternative meal planning approaches is through the **formal rule making process**. A proposed regulation, which the Department will publish early this fall, will provide the public with maximum opportunity to comment and participate, and will assist the Department in considering the needs and concerns of all interested parties. While it is not possible to finalize a regulation in time for implementation in SY 1996-1997, the Department does not believe local school food services will be adversely affected since they have four meal planning options to choose from and may still request implementation waivers for up to 2 years.

## II. IMPLEMENTATION OF NUTRITION STANDARDS

It is important to recognize that Public Law 104-149 makes no change to the nutrition standards for either the NSLP or SBP. The law is clear that school meals are expected to comply with the Dietary Guidelines, as required by Public Law 103-448, the Healthy Meals for Healthy Americans Act of 1994. In addition, the law does not rescind any of the nutrition standards established in the Department's June 13, 1995, final regulation.

The law also has no affect on the time frames for compliance with these nutrition standards. In order to assure compliance with the SY 1996-1997 time frame established in the statute, the Department believes that schools must adopt one of the four meal planning systems already established in the law and regulations unless the SA has specifically authorized an implementation waiver. By law, such waivers can not be in effect beyond June 30, 1998.

## III. PROGRAM OVERSIGHT

When conducting nutrition reviews, SAs shall continue to observe the requirements set forth in the June 13, 1995, regulation. Schools shall continue to maintain records as required by the regulations, including those schools using the traditional meal pattern. States will specify records schools must maintain to facilitate nutritional analysis during reviews. If the SA determines that a school's food service is not in compliance with the nutrition standards, the State shall undertake corrective action and technical assistance as provided for in existing regulation.

The Department is fully aware of the challenges that we all face in continuing to educate children and their parents to the important relationship between health and nutrition. The school meal programs have and will continue to play a critical role in supporting healthy dietary habits for Americans. This guidance establishes the traditional meal pattern as one of the meal planning options schools may use in meeting nutrition standards for the NSLP and the SBP. The Department has committed to moving swiftly to complete a regulation that will

offer schools even more flexibility in accomplishing the goals of the School Meal Initiative for Healthy Children. They will also continue their review of the questions that have been raised concerning the updated Grains/Breads Instruction. In addition, the Department anticipates making other changes in crediting that will support local flexibility.

In summary, this policy means that at the beginning of SY 1996-1997, schools shall be implementing one of the four Menu Planning Options identified -- NuMenus, Assisted NuMenus, Food-Based, or Traditional Meal Pattern. If a school is not implementing one of these options, it should have received an implementation waiver from the SA, if applicable.



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